THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.26695 of 2000

Dated:13.07.2007

Between
N.Pandari

.....Petitioner

and

1. The Depot Manager
APSRTC, Zaheerabad
Depot and another.

...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.26695 of 2000

ORDER:

This writ petition has been filed seeking a Certiorari to call for the records pertaining to the award dated 12.1.1999 passed in I.D.No.83 of 1995 on the file of Labour Court-II, Hyderabad, which was published *vide* G.O.Rt.No.234, dated 12.2.1999 and to quash the same as arbitrary and illegal and consequently to direct the respondents to reinstate the petitioner with continuity of service and all attendant benefits.

The petitioner is the workman and 1st respondent is the Management. It appears that the petitioner was issued with a charge sheet enumerating the following charges.

1.For having failed to observe rule "Issue & Start" which constitutes

misconduct under Reg.28 (xxxii) of APSRTC Employees (Conduct) Reg.1963
2.For having collected the requisite fare and failed to issue tickets to a batch of 11 passengers who boarded the bus at Bidar and bound alighting at Santur Rly gate Ex.Stages 8/7. Hence, taken TPT, which constitutes misconduct under Reg.28 (vi) (a) of APSRTC Employees (Conduct) Reg.1963.
3.For having failed to close SR at stage No.7 which constitutes misconduct under Reg.28 (xxxi) of APSRTC Employees (Conduct) Regulations, 1963.

Thereafter, the petitioner submitted his explanation and after conducting a detailed enquiry into the matter, he was removed from service. Ultimately, the petitioner raised an industrial dispute being I.D.No.83 of 1995 before the Labour Court-II, Hyderabad. It was the case of the petitioner that the charges levelled against him are not proved and that the enquiry conducted was in violation of principles of natural justice. Therefore, the

removal order passed by the respondent-Management was arbitrary and illegal.

Before the Labour Court, the respondent-Management filed a counter-affidavit stating that the petitioner committed cash and ticket irregularities and the enquiry was conducted in a fair and proper manner and, therefore, there was no violation of principles of natural justice. The petitioner was given opportunity to defend himself and that he intentionally avoided to attend the enquiry. Therefore, *ex parte* enquiry was conducted on the basis of enquiry officer's report and entire evidence, it was held that the charges levelled against the petitioner were proved. Therefore, a show cause notice was issued to him, for which he submitted his explanation, but the same was not satisfactory. Hence, the removal order was passed.

Before the Labour Court, the petitioner-workman examined himself as WW1 and marked Exs.W1 to W8. On behalf of the

respondent-Management, MW1 was examined and Exs.M1 to M6 were marked.

After a detailed consideration of the entire evidence on record, the Labour Court came to the conclusion that the charges framed against the petitioner were grave in nature and therefore, he does not deserve any punishment lesser than that of removal from service and dismissed the petition.

Learned counsel for the petitioner submits that the charges are trivial in nature and even assuming that they are proved, the punishment of removal from service is disproportionate to that of the misconduct alleged against him.

Learned Standing Counsel for the respondent-Management supported the award passed by the Labour Court and submitted that the Labour Court has not committed any error calling for interference of this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the

learned counsel on either side and perused the impugned award and other material made available on record.

Charges 1 and 2 as noticed above, are very trivial and procedural in nature. Insofar as charge No.2 is concerned, the petitioner failed to collect requisite fare and issue tickets to a batch of 11 passengers, who boarded the bus at Bidar and found alighting at Santur Railway gate Ex.Stages 8/7, which constitutes a misconduct. Admittedly, the route is a mofussil one and the conductor is supposed to complete the process of issuing tickets within one fare stage. In this case, 11 passengers boarded bus at stage No.8 and they were found alighting at 8/7 i.e., Santur Railway gate, which was even not a one fare stage and the distance seems to be very short. Hence, it can be construed that there was no time for issuing tickets within short distance of half of the stage. Of course, that does not mean that the petitioner could not have issued tickets only for

that reason. It is always open for the petitioner to issue tickets and then start the bus. The distance between the point boarded and the point where the passengers were alighting, was very short. It is the case of the petitioner that he failed to collect the requisite fare and issue tickets. This itself shows that there was no intention on the part of the petitioner to collect money from the passengers, who were found alighting. Further, even according to the counter filed by the Management before the Labour Court except stating that the petitioner's record was always not satisfactory, no specific incident was brought to the notice of the Labour Court. Therefore, I am of the opinion that the punishment of removal from service of the petitioner is shockingly disproportionate to that of the misconduct alleged against him. Hence, a lenient view needs to be taken particularly when the petitioner served for more than twenty years in the respondent-Management.

Under those circumstances, the writ petition is allowed setting aside the award passed by the Labour Court and the respondent-Management is directed to reinstate the petitioner with continuity of service and all other benefits notionally, but without any back wages.

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13-07-2007

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